

January 16, 2025

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

LAURA A. AUSTIN, CLERK
BY: s/A. Beeson
DEPUTY CLERK

JOEL ALLEN BURRELL,
Plaintiff,

v.

JANE DOE, *et al.*,
Defendants.

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Civil Action No. 7:24-cv-00900

By: Elizabeth K. Dillon
Chief United States District Judge

MEMORANDUM OPINION AND ORDER

Joel Allen Burrell, a Virginia inmate proceeding *pro se*, commenced this civil action under 42 U.S.C. § 1983. It has come to the court's attention that among the voluminous attachments that Burrell filed with this complaint, there was another complaint that plaintiff intended to be filed as a separate lawsuit. (Dkt. No. 1-1 at 98 through 106 of 274.)

Accordingly, it is HEREBY ORDERED that the Clerk is DIRECTED to open one new case and to conditionally file a copy of the complaint referenced above (Dkt. No. 1-1 at 98 through 106 of 274). The Clerk shall also docket Burrell's Statement of Assets and Prisoner Trust Account Report (Dkt. Nos. 3, 6) in the new case and issue the required conditional filing orders. The fact that the court is allowing the filing of Burrell's claims in another lawsuit is not a finding that he has stated any meritorious claim for relief under 42 U.S.C. § 1983 or any other valid claim. Instead, the claims will be evaluated after he returns his consent-to-fee form.

If Burrell does not want to pursue the new case, he may file a motion voluntarily dismissing that lawsuit. Burrell should carefully consider which cases and claims to pursue. If he elects to proceed with a case, and the claims in it are later dismissed as frivolous or for failure to state a claim, that dismissal will likely count as a "strike" for purposes of the PLRA's three-strikes provision, 28 U.S.C. § 1915(g). *See Lomax v. Ortiz-Marquez*, 140 S. Ct. 1721, 1727 (2020)

(holding that a dismissal of a suit for failure to state a claim whether with or without prejudice, counts as a strike under the PLRA).

Lastly, the Clerk also shall send to Burrell a copy of this order and a copy of a docket sheet in each case to give him clear notice of the new case numbers and the content of each case.

Entered: January 16, 2025.

/s/ Elizabeth K. Dillon
Elizabeth K. Dillon
Chief United States District Judge